

**Testimony by Verlie Ruffin, Children's Ombudsman
HB 6440 before the Family and Children's Services Committee
September 13, 2006**

Good afternoon, Mr. Chairman and members of the Committee. My name is Verlie Ruffin and I am the Ombudsman for the Office of Children's Ombudsman (OCO). As you know, I was appointed by the Governor, and confirmed with the advice and consent of the senate. I have served as the Children's Ombudsman since January 30, 2006. Joining me today is Charlotte Smith, our Intake Investigator and one of the attorneys on my staff. Charlotte has been with the OCO for 10 years.

Among other duties, the OCO is responsible for investigating complaints about the handling of children's cases by the Department of Human Services and private child-placing agencies with respect to children's protective services, foster care, adoption services and as of January 2005, juvenile justice. Our investigations consist of reviewing agency actions to determine whether they complied with laws and policies.

I am here today to testify in opposition to House Bill 6440, which seeks to transfer the OCO to the Legislative Council. After reviewing the legislation, it is unclear how this bill will improve the child welfare system, positively impact our office, or better serve children and our complainants. The Children's Ombudsman Act, as strengthened by Ariana's Law, is sufficient to assure that the OCO functions with integrity, credibility, and be independent of outside interests and influences.

The Children's Ombudsman Act was amended in 2004 by Ariana's Law and became effective on January 3, 2005. We appreciate the dedication and hard work on Ariana's Law by Representative Hagar, members of the legislature, and others. Through their efforts, the OCO's authority was strengthened and safeguards regarding confidentiality and release of information to complainants was significantly improved.

Ariana's Law greatly expanded the OCO's legal authority as an autonomous, independent state agency. This is clearly delineated in Sections 6(g), and 11(3) of the Children's Ombudsman Act. Section 6(g) states in part the Ombudsman may, *"make recommendations to the governor and legislature concerning the need for children's protective services, adoption, or foster care legislation, policy, or practice without prior review by other offices, departments, or agencies in the executive branch...."* Another key provision, Section 11(3) states, *"a report by the ombudsman is not subject to prior approval by a person outside of the office."* This means that any person or entity outside the office, such as the Legislature, DHS and the Governor, that would attempt to influence, interfere, or otherwise affect the content of our reports or recommendations is prohibited by law from doing so. It is my responsibility as the Ombudsman to ensure that we follow all provisions governing confidentiality and release of information.

Thanks to Ariana's Law, the OCO's accountability was enhanced by allowing us to release more information about the results of an investigation to

our complainants via several sections of our amended law. Prior to the 2004 amendments to our law, only a select few complainants could receive this information. Now, every OCO complainant will receive a written response outlining the results of our investigation.

When we affirm DHS or a private child-placing agency, our complainants receive a Closing Report of Affirmation in the form of a letter that contains a summary of our investigative steps, DHS's actions, applicable law and policy, and the reasons why we determined there were no violations. For example, we affirmed DHS' actions in the Rose Bowen-Kelley case. The information OCO can release to our complainants is governed not only by the Children's Ombudsman Act, but also the Child Protection Law (CPL). Our complainants received an affirmation letter, but the Child Protection Law prohibited us from releasing confidential information from Rose's children's protective services case file regarding details of the complaints and how the agency handled them.

When we identify that there are violations of law and/or policy during an investigation, we issue a Report of Findings and Recommendations, better known as an F&R, to DHS and the private child-placing agency. Our F&Rs are comprehensive compilations of case file documents including a background summary, case facts, findings, recommendations, and conclusion. Once we receive the agency's response to an F&R, we send our complainants a Closing F&R Report.

Prior to the 2004 amendments to the Children's Ombudsman Act, the law only allowed the release of our F&R recommendations and the agency's response to our complainants. Amendments to the Children's Ombudsman Act now allow the OCO to release our investigative findings from an F&R, in addition to the recommendations and agency response. In other words, the pool of people who can receive information has been expanded and the amount of information they will receive has greatly increased.

Prior to Ariana's Law, the OCO could not release any information to a legislative committee. Section 9(2) now gives us the legal authority to release both confidential and non-confidential information regarding an OCO investigation *"Ombudsman may release information to a closed session of a legislative committee that has jurisdiction over family and children's services issues regarding the department's handling of a case...."*

However, Section 9(5) states that the ombudsman *"shall not disclose information relating to an ongoing law enforcement investigation or an ongoing children's protective services investigation."* For example, in the Holland case, I received a letter from Ingham County Prosecutor Dunnings informing me that there is an ongoing criminal investigation into Ricky Holland's death. If I had released our Holland F&R Report, the information contained may have jeopardized the ongoing criminal proceedings. I believe the legislature's intent was to ensure that information in the OCO's possession did not prejudice a

criminal case or "*impair the rights of a child or his/her parents*" as stated at the end of Section 9(1).

Since its inception, the OCO has functioned as an autonomous entity housed within the Department of Management and Budget. DMB is a state agency that does not conduct business related in any way to the issues my office addresses. DMB has never exercised any authority over or influenced the work that we do.

I have concerns about the ramifications of transferring the OCO to the Legislative Council. Based upon comments in the media, there appears to be a perception that the legislature would automatically have ready access to a child's confidential case file information. Section 9(5) of the Children's Ombudsman Act prohibits my office from releasing case information to anyone. The word "shall" as used in this section removes my discretion to release information if there is an ongoing law enforcement or CPS investigation. Thus, a legal conflict would be created between the legislature's desire and perceived right to the information, and my legal responsibility to follow the laws governing confidentiality and the release of information.

As has been stated, the perception of autonomy can be just as important as reality. We believe that maintaining the OCO within the Department of Management and Budget preserves our autonomy and the perception of autonomy.

First and foremost, the OCO's focus is on the children who are the subjects of complaints and investigations conducted by our experienced staff of investigators. We take seriously our mission of assuring the safety and well-being of Michigan's children involved in the child welfare system.

It has been my experience during my tenure and the collective experience of my staff over the years that the provisions contained in the amended Children's Ombudsman Act, including maintaining the OCO as an independent entity within DMB, maximizes our ability to fulfill our mission as the legislature intended. Among other things, House Bill 6440 does not enhance our ability to effectively carry out our mission which is to *"assure the safety and well-being of Michigan's children in need of foster care, adoption and protective services and to promote public confidence in the child welfare system."*

Thank you.

MICHIGAN LEGISLATURE

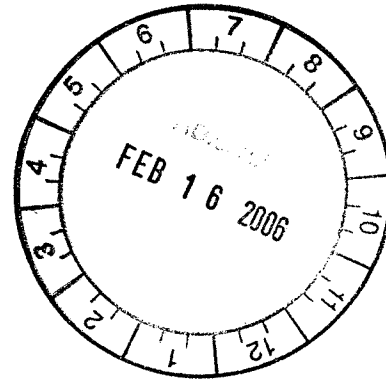


**MICHIGAN
HOUSE OF REPRESENTATIVES**
P.O. BOX 30014
LANSING, MICHIGAN 48909-7514
PHONE: (517) 373-3528

MICHIGAN SENATE
P.O. BOX 30036
LANSING, MICHIGAN 48909-7536
PHONE: (517) 373-8880

February 16, 2006

Verlie Ruffin
Office of the Children's Ombudsman
P.O. Box 30026
Lansing, MI 48909



Dear Mrs. Ruffin:

Pursuant to the Children's Ombudsman Act, we are formally requesting a review and report of the alleged child abuse case involving Lisa and Tim Holland of Williamston.

Numerous media reports have documented the disappearance and murder of the Hollands' son, Ricky. We are very troubled by the reports and must question whether the Department of Human Service's Child Protective Services and Children's Foster Care need dramatic overhaul.

Of particular concern, Jackson school officials say they filed multiple reports of alleged severe abuse and neglect of the Holland children. Caseworkers also observed signs of abuse and neglect of the Holland children.

In your review we would also like you to answer the following questions:

- The Department of Human Service's "Family First" policy seeks to keep children in their homes when abuse is suspected or even confirmed. Why did the evidence and suspicion of abuse in the household not rise to the threshold which required the children to be removed?
- How did your agency categorize the abuse/injuries or reports of abuse?
- The Holland family recently moved from Jackson County to Ingham County. Who was responsible for informing the Ingham County DHS regarding the Holland's alleged abuse of the Holland children? Was this carried out in a timely manner? What type of follow up occurred?
- According to media reports, Children's Protective Services workers observed signs of physical abuse among Ricky's surviving siblings as recently as January 2006, more than

six months after Ricky disappeared. After the disappearance, did the department increase its scrutiny of the suspected child abuse in the home? How soon and how often after the disappearance did the caseworkers visit the home? Should the Holland children have been removed at this time?

- Local police agencies conducted an exhaustive six-month search for Ricky after he was reported missing. Did DHS alert law enforcement concerning its suspicions of child abuse in the Holland home? Did DHS review any police investigative reports after the disappearance and/or investigation?
- Please detail the foster care review process which deemed the Hollands to be suitable foster care parents. Had DHS received any abuse complaints concerning the Hollands prior to placing any foster children in their home?

We would also request the following records:

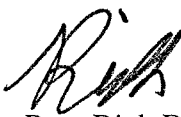
- All reports, substantiated or unsubstantiated, regarding Ricky, his siblings and his parents.
- Records of all home visits by the agency or any contract agency.
- Copies of all 3200 forms filed by the school district regarding Ricky and his siblings.

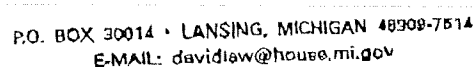
We understand that this is a complex case, made more difficult by an ongoing criminal investigation. However, a number of Michigan legislators have expressed concern that children are falling through the cracks every day and believe immediate action by the Legislature may be necessary.

We would respectfully request that you provide us with a report of your findings to date, no later than March 1, 2006.

Sincerely,


Rep. David Law
R-Commerce Township


Rep. Rick Baxter
R-Concord



*Stuart Dunning could not be present today & on his behalf,
I would like to read this letter into the record.*

May 8, 2006

The Honorable David Law
State Representative, 39th District
P.O. Box 30014
Lansing, MI 48909-7514

Dear Representative Law:

Thank you for your continued interest in our investigations into acts and omissions, putatively in violation of MCL 750.136b, *et al*, committed against Richard "Ricky" Holland, and his siblings. As I have previously indicated to you, other interested officials, and agencies having the interests of children within their scope, the investigation(s) into these matters are on-going. For this reason, I have presented my objections to any disclosure of materials, reports, or summaries prepared by the Office of Children's Ombudsman pertaining to the Holland minors.

The principal charge against the Hollands is felony murder. The predicate felony is child abuse.

I have been in communication with two Assistant Attorneys General who conclude, as do I, that my objection, based on an on-going law enforcement investigation, unambiguously prohibits disclosure of information by the Children's Ombudsman.

I am very respectful of the Legislature's duty to address the needs of the People of the State of Michigan; and, I recognize the authority of your Special Committee to conduct hearings intended to advance the particular needs of children. However, this Office has its own obligations to the People of the State of Michigan. It is my opinion that matters currently pending in the 30th Judicial Court, in both Circuit and Family Court, *with the investigators still gathering evidence*, will be adversely affected by the disclosure you request. It is my further opinion that my ability to bring additional charges against additional individuals, who, by their omissions, caused harm to the Holland minors, will be likewise affected.

The Ombudsman's report has not yet been concluded however I have made it clear that I do not wish to see that prior to its public release. In the normal course I would not review such a report prior to its release. I did reconsider this in light of your request but find that my prior approval of what is to be released by the Ombudsman is specifically prohibited. MCL 722.931(3) provides:

"The report of the Ombudsman is not subject to prior approval by a person outside of the office"

It is also my sincere hope that we can both carry out our responsibilities.

Regards,

Stuart J. Dunning III
Prosecuting Attorney for the County of Ingham